

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To:

Agency(ies) Charge No(s):

☐ FEPA☒ EEOC **410-2023-06389**

and EEOC

State or local Agency, if any

Name (Indicate Mr., Ms., Mrs.)

Mr. Dan Capel

Home Phone (Incl. Area Code)

(801) 655-3732

Date of Birth

10-14-1977

Street Address

City, State and ZIP Code

4583 Wingfield Way, Flowery Branch, GA 30542

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two are named, list under PARTICULARS below.)

Name

FullStory

No. Employees, Members

Over 500

Phone No. (Incl. Area Code)

(678) 337-1868

Street Address

City, State and ZIP Code

1745 Peachtree Rd NW, Suite G, Atlanta, GA 30309

Name

No. Employees, Members

Phone No. (Incl. Area Code)

Street Address

City, State and ZIP Code

Received 4/6/2023 ATDO

DISCRIMINATION BASED ON (Check appropriate box(es).)

☐ RACE☐ COLOR☐ SEX☐ RELIGION☐ NATIONAL ORIGIN☒ RETALIATION☐ AGE☐ DISABILITY☐ GENETIC INFORMATION☐ OTHER (Specify)

DATE(S) DISCRIMINATION TOOK PLACE

Earliest

1-23-23

Latest

Present

☒ CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

FullStory has retaliated against Mr. Capel because of his participation in a complaint of discrimination and in the EEOC's investigation and mediation of his previous EEOC charge and because of his opposition to FullStory's discrimination by making false and misleading negative statements about him to his new employer, attempting to interfere with his new employment, making oppressive requests to Mr. Capel through his attorney related to his Employment Covenants Agreement, and threatening baseless litigation against Mr. Capel.

Within a few hours after an unsuccessful mediation before the EEOC on January 23, 2023, between Dan Capel (the Charging Party in this Charge and in a previously filed charge: 410-2022-09146, for which a Notice of Right to Sue was issued on March 8, 2023) and FullStory, FullStory began its retaliation against Mr. Capel for continuing his Title VII claims: including taking the following actions:

1. By letter on January 23, 2023, FullStory told Mr. Capel's new employer that Mr. Capel was in violation of state and federal statutes, which he was not.

EXHIBIT 3

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the above is true and correct.

April 6, 2023

Date

Charging Party Signature

NOTARY - When necessary for State or Local Agency Requirements

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
(month, day, year)

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2. By letter dated January 23, 2023, FullStory told Mr. Capel's new employer that FullStory had just learned on January 3, 2023 (the day Mr. Capel went to work for his new employer) that Mr. Capel had not returned FullStory documents. In fact, Mr. Capel had informed FullStory on December 14, 2022 of his continued access to certain FullStory documents. Additionally, after FullStory was informed on December 14, 2022 that Mr. Capel had access to certain documents, 18 days passed without action or substantive response from FullStory. Then, Mr. Capel, through counsel, repeatedly sought direction from FullStory as to how to dispose of the documents since an Employment Covenant Agreement prevented Mr. Capel from doing so without direction from FullStory. Yet, in the retaliatory and defamatory letter to Mr. Capel's employer, FullStory asserted that Mr. Capel failed to return such documents to FullStory. FullStory knew well that Mr. Capel had repeatedly, by that time, offered to return the documents or destroy them but could not do so without direction from FullStory, which had not been given; and

3. In a further and obvious attempt to retaliate against Mr. Capel for his participation in the EEOC process and opposition to FullStory's discrimination and to get Mr. Capel to drop his Title VII claim or risk termination from his new employment, FullStory demanded sworn statements from his new employer and even a forensic examination of his new employer's electronic devices.

4. Thereafter, FullStory has continued to make oppressive requests to Mr. Capel and threatened baseless litigation against him.

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